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Attorneys for Plaintiff and Counter-Defendant
 COMMONWEALTH ANNUITY AND LIFE INSURANCE
 COMPANY f/k/a ALLMERICA FINANCIAL LIFE INSURANCE
 AND ANNUITY CO.,

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

COMMONWEALTH ANNUITY AND
 LIFE INSURANCE COMPANY f/k/a
 ALLMERICA FINANCIAL LIFE
 INSURANCE AND ANNUITY CO.,

Plaintiff,

vs.

JOHN DALESSIO; RITA DALESSIO; and
 the DALESSIO FAMILY 2003 TRUST,

Defendants.

Case No. CV 08 1739 EDL

JOINT RULE 26(F) REPORT

Date : July 1, 2008
 Time : 9:00 a.m.
 Courtroom : 790

JOHN DALESSIO; RITA DALESSIO and the
 DALESSIO FAMILY (2003) TRUST,

Counter-Claimants,

vs.

COMMONWEALTH ANNUITY AND LIFE
 INSURANCE COMPANY f/k/a ALLMERICA
 FINANCIAL LIFE INSURANCE AND ANNUITY
 COMPANY, a Delaware corporation; DAVID
 SHANE, an individual; VAUGHN R. WALKER,
 an individual; ANN SPARKMAN, an individual;
 and DOES 1 through 20,

Counter-Defendants.

1 Plaintiff and Counter Defendant COMMONWEALTH ANNUITY AND LIFE
2 INSURANCE COMPANY f/k/a ALLMERICA FINANCIAL LIFE INSURANCE AND ANNUITY
3 CO. ("Allmerica") for itself alone hereby submit this Rule 26(f) Report as follows:

4 A. F.R.C.P. Rule 26(f)(1)

5 Despite numerous calls to Mr. Dalessio Allmerica has not been able to contact
6 Mr. Dalessio to discuss any aspect of this matter. Allmerica has received neither disclosures
7 nor documents from him.

8 Allmerica is making its initial disclosures of witnesses and documents
9 concurrent with this report.

10 B. F.R.C.P. Rule 26(f)(2)

11 Allmerica intends to take the deposition of Dalessio to ascertain the substance
12 of any allegations. Allmerica will then move for summary judgment to force payment of the
13 settlement agreement and to dismiss the counter claim.

14 Allmerica does not know what discovery Dalessio intends to do.

15 Allmerica suggest a discovery cut off date of February 28, 2009. and does not
16 believe that discovery phases are necessary.

17 C. F.R.C.P. Rule 26(f)(3)

18 None.

19 D. F.R.C.P. Rule 26(f)(4)

20 None.

21 E. Proposed Dates

22 The parties propose the following dates:

23 Discovery Cut-Off February 28, 2009

24 Motion Cut-Off March 28, 2009

25 Pre-Trial Conference May 2009

26 Trial Date June 2009

27 F. Discovery Matters

28 Allmerica does not believe that discovery phases are necessary.

1 G. Trial Estimate

2 Allmerica estimates a three (3) day trial.

3 H. Settlement Efforts To Date

4 There have been no settlement discussions to date. Allmerica has been unable
5 to communicate with Dalessio.

6 I. Complex Cases

7 Allmerica does not believe that this is a complex case.

8 J. Additional Parties

9 Dalessio has not served the other cross defendants except for Allmerica.

10 K. Dispositive Motions

11 Allmerica intends to file a motion for summary judgment based on the terms of
12 the settlement. Allmerica also intends to file a motion for summary judgment based on res
13 judicata and collateral estoppel.

14 L. Unusual Legal Issues

15 Allmerica does not believe that this case presents any unusual legal issues.

16 M. Severance, Bifurcation and Order of Proof

17 Allmerica does not believe that this case requires severance, bifurcation or
18 other ordering of proof.

19 DATED: June 25, 2008

20
21 SHANE & TAITZ

22
23 By: /s/ David R. Shane
24 David R. Shane
25 Attorneys for Plaintiff/Counter-
26 Defendant COMMONWEALTH
27 ANNUITY AND LIFE INSURANCE
28 COMPANY f/k/a ALLMERICA
FINANCIAL LIFE INSURANCE
AND ANNUITY CO.

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4 **PROOF OF SERVICE BY MAIL**

5 **Commonwealth Annuity, etc. vs. Dalessio, et al.**
6

7 I declare that I am employed in the County of Marin, State of California. I
8 am over eighteen years and not a party to the within cause; my business address is Shane
9 & Taitz, 1000 Drakes Landing Road, Suite 200, 2nd Floor, Greenbrae, California 94904-3027.

10 On June 25, 2008, I served upon the interested party/parties hereto the
11 within document, described as:

12 **JOINT RULE 26(F) REPORT**
13 **[Unilateral]**

14 by enclosing said document in a sealed envelope at Greenbrae, California. I am readily
15 familiar with the firm's practice of collection and processing of items for mailing. Under
16 that practice, each item is deposited with the United States Postal Service on that same
17 day with postage thereon fully prepaid at Greenbrae, California, during the ordinary
18 course of business. I am aware that on motion of the party served, service is presumed
19 invalid if the postal cancellation/meter date is more than one day after date of deposit for
20 mailing in affidavit. The item mailed is addressed, as follows:

21 **Refer to Attached Service List**

22
23 I declare under penalty of perjury of the laws of the State of California that
24 the foregoing is true and correct.

25 This declaration was executed on June 25th, 2008 at Greenbrae, California.
26

27 /s/ Molly B. Libbey
28 Molly B. Libbey

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SERVICE LIST

Commonwealth Annuity, etc. vs. Dalessio, et al.

Defendants and Counter-Claimants

JOHN DALESSIO
16 Via Las Encinas
Carmel Valley, California 93924-9449

RITA DALESSIO
16 Via Las Encinas
Carmel Valley, California 93924-9449

DALESSIO FAMILY [2003] TRUST
16 Via Las Encinas
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